

## MAILING CERTIFICATION

## PATENTS

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231 on August 26, 2002

  
Kathleen D. Monical

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty's Docket No.:  
101195-66

Examiner : TBA

Group Art Unit : TBA

Applicant : Karsten Brand et al.

Appln. Number : 09/980,972

Filed : October 29, 2001

For : Agent for Gene Therapy and for the Prevention  
of Metastases, as Well as for the Gene Therapy of  
Tumors

Response to Decision on Papers Under 37 CFR 1.42

Asst. Commissioner of PATENTS  
Washington, D.C. 20231

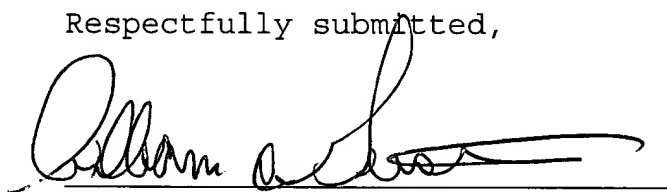
Sir:

In further response to the Decision of Papers Under 37 CFR1.42 mailed June 26, 2002, the undersigned submits a further declaration executed by the inventors and Mrs. Strauss for her deceased husband with a revised "Added Page to Combined

Declaration and Power of Attorney for Signing by  
Administrator(trix), Executor(trix) or Legal Representative on  
Behalf of Deceased or Incapacitated Inventor" in which Mrs.  
Strauss is identified as "legal representative and Sole Heir of  
the deceased inventor, Michael Strauss together with copies of  
the last will and testament of Michael Strauss with an English  
translation. The first response was filed August 5, 2002.

Please issue the Notification of Acceptance of Application  
Under 35 U.S.C. 371 and 37 CFR 1.494 and 1.495 with a 35 U.S.C.  
102(e) date of March 14, 2002.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'William C. Gerstenzang', is written over a horizontal line.

William C. Gerstenzang (27,552)  
Attorney for Applicant  
Norris McLaughlin & Marcus P.C.  
220 East 42<sup>nd</sup> Street, 30<sup>th</sup> Floor  
New York, N.Y. 10017  
Telephone: (212)808-0700  
Facsimile: (212)808-0844

**Norris, McLaughlin & Marcus, P.A.**220 East 42<sup>nd</sup> Street, 30<sup>th</sup> Floor  
New York, NY 10017

If each inventor understands English, the Declaration and Power of Attorney below is suitable for use when filing a regular patent application and also when entering the national stage, in the case of an International application designating the USA under the PCT.

**COMBINED DECLARATION AND POWER OF ATTORNEY FOR  
PATENT APPLICATION**Attorney Docket No.  
101195-66

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below at 201) or an original, first and joint inventor (if plural names are listed below at 201-205) of the subject matter which is claimed and for which a patent is sought on the invention entitled

Agent for Gene Therapy and for the Prevention of Metastases, as Well as for the Gene Therapy of Tumors

the specification of which (check one)

☐ is attached hereto☒ was filed on 2 May 2000under Serial Number PCT/DE00/01416 and was amended on \_\_\_\_\_  
(if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

I list below any prior foreign application(s) for patent or inventor's certificate in respect of which foreign priority benefits are claimed under 35 USC 119; and any prior foreign application(s) for patent or inventor's certificate in respect of which such foreign priority rights are not claimed and which has a filing date before that of any application in respect of which such foreign priority benefits are claimed:

Application Number	Country	Filing Date (day, month, year)	Priority Claimed under 35 USC 119
199 19 865.9	Germany	30 April 1999	YES: <input checked="" type="checkbox"/> NO: <input type="checkbox"/>
			YES: <input type="checkbox"/> NO: <input type="checkbox"/>
			YES: <input type="checkbox"/> NO: <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

Application No.	Filing Date

## Combined Declaration and Power of Attorney

101195-66

Page 2

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

**Bruce S. Londa (33,531) Lorimer P. Brooks (15,155) William R. Robinson (27,224)**  
**Kurt G. Briscoe (33,141) William C. Gerstenzang (27,552) Robert A. Hyde (46,354)**  
**Davy E. Zoneraich (37,267) Mark A. Montana (44,948)**

<b>201</b>	Family Name	First Given Name	Second Given Name
	BRAND	Karsten	
	City of Residence	State or Foreign Country	Country of Citizenship
	Berlin	Germany	Germany
<b>202</b>	Post Office Address	City	State & ZIP/Country
	Jagowstrasse 30	D-10555 Berlin	Germany
	Family Name	First Given Name	Second Given Name
	BAKER	Andrew	
<b>203</b>	City of Residence	State or Foreign Country	Country of Citizenship
	Dumbarton	United Kingdom	United Kingdom
	Post Office Address	City	State & ZIP/Country
	Hillview 24 Round Riding Road	Dumbarton G82 2HW	United Kingdom
<b>204</b>	Family Name	First Given Name	Second Given Name
	STRAUSS	Michael	
	City of Residence	State or Foreign Country	Country of Citizenship
	Berlin	Germany	Germany
<b>204</b>	Post Office Address	City	State & ZIP/Country
	Charlottenstrasse 17	D-13156 Berlin	Germany
	Family Name	First Given Name	Second Given Name
<b>204</b>	City of Residence	State or Foreign Country	Country of Citizenship
	Post Office Address	City	State & ZIP/Country

Attorney's Docket No.:  
101195-66

ADDED PAGE TO COMBINED DECLARATION AND POWER OF  
ATTORNEY FOR SIGNING AS ADMINISTRATOR(TRIX), EXECUTOR(TRIX)  
OR LEGAL REPRESENTATIVE ON BEHALF OF DECEASED OR  
INCAPACITATED INVENTOR (37.cfr 1.42 AND 1.43)

I, hereby declare that I am a citizen of Germany residing at Charlottenstrasse 17, D-13156 Berlin, Germany and that I am executing and signing the declaration to which this is attached as

\_\_\_ the administrator(trix) of

\_\_\_ executor(trix) of the last will and testament of

\_\_\_ ☒ legal representative and SOLE HEIR of

third inventor, deceased, Michael Strauss  
a citizen of Germany  
who resided at Charlottenstrasse 17, D-13156 Berlin, Germany

That, upon information and belief, I aver those facts that the inventor is required to state..

Date: 19.08.02

Irene Strauss  
Irene Strauss

NOTE: Proof of authority of the administrator(trix), executor(trix) or legal representative must be recorded in the PTO or filed in the application before the grant of the patent. 37 CFR 1.44

NOTE: Application may be made by the heirs of the inventor if a certificate of the court will establish that they are all the heirs and the estate was not required to appoint an administrator. All the heirs must sign.

Combined Declaration and Power of Attorney  
 101195-66  
 Page 3

205	F	Full Name	First Given Name	Second Given Name
	C	City or Residence	State or Foreign Country	Country of Citizenship
	F	Office Address	City	State & ZIP/Country

I hereby declare that the statements made herein of my own knowledge are true; and that all statements made of information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 101 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 21	<i>Kirsten Bouchard</i>	Date	7.9.02
Signature of Inventor 21	<i>X. Rulli</i>	Date	20.8.02
Signature of Inventor 21	INVENTOR DECEASED - completed on added page	Date	13.08.02
Signature of Inventor 21	<i>Jane Poterish</i>	Date	
Signature of Inventor 21		Date	

Amtsgericht Tankow / Weßmar

Geschäftsnummer

62 TV 160/99

01. Juni 1999

Berlin, den

Gegenwärtig:

(Syrka)

RechtspflegerIn

Rechtspfleger(in)

Zur Eröffnung einer gemeinschaftlichen Verfügung von Todes wegen des/der  
am 12. Januar 1950 geborenen und am 29. April 1999 verstorbenen

Prof. Dr. sc. nat. Michael Reinhard Strauss

erschien niemand.

Die Ladung der Beteiligten war untunlich und ist deshalb unterblieben.

Die Sterbeurkunde(n) – Sterbefallmitteilung(en) befindet/befinden sich bei den Akten.

Die bereits am eröffnete(n) – gemeinschaftliche(n) – Verfügung(en) von Todes wegen wurde(n) nochmals eröffnet.

Die – gemeinschaftliche(n) – Verfügung(en) von Todes wegen wurde(n) – offen – im/in-unversehrt in offener  
verschlossenen Umschlag/Umschlägen – abgeliefert.

Der Umschlag/Die Umschläge wurde(n) geöffnet und die Verfügung(en) von Todes wegen vom 22.09.98  
eröffnet nach dem Ehemann.

– Die aus der besonderen amtlichen Verwahrung genommene(n) – gemeinschaftliche(n) – Verfügung(en)  
von Todes wegen war/waren mit dem Siegel  
des Notars/der Notarin  
des Amtsgerichts  
verschlossen.

Der Verschluß war / Die Verschlüsse waren unversehrt.

Der Umschlag/Die Umschläge wurde(n) geöffnet und die – gemeinschaftliche(n) – Verfügung(en) von Todes  
wegen vom  
– mit Ausnahme des eingeklammerten Teiles nach  
eröffnet.

Rechtspfleger(in)

# Gemeinschaftliches Testament

Wir, die Eheleute Irene und Michael  
Strauss, setzen uns gegenseitig zu  
Alleinerben ein.

Nach dem Tode des Längstlebenden  
von uns, sollen unsere Kinder,  
Susanne und Robert, zu gleichen  
Teilen erben.

Sollte eines unserer Kinder nach dem  
Erstversterbenden den Pflichtteil ver-  
langen, so soll es auch nach dem  
Letztversterbenden nur den Pflichtteil  
erhalten.

Der überlebende Ehegatte hat die  
Möglichkeit, das Testament zu ändern.

Berlin, den 22. 09. 98 Irene Strauss

Dieses Testament ist auch mein letzter Wille.

Berlin, d. 22. 09. 99

Michael Strauss

Eröffnet nach dem Ehemann

Berlin, den 01. Juni 1999

Amtsgericht Pankow/Weißensee, Abt. 62

- 62 IV 160 199 -

Rechtspfleger-In



Die Übereinstimmung vorstehender  
Fotokopie / ~~Abschrift~~ mit der Urschrift  
wird hiermit beglaubigt.

Berlin, den 21. 6. 99

Justizangestellte

*[Handwritten signature]*



[Translator: Italicized material on this page was handwritten in the original.]

Certified Photocopy

Amtsgericht Pankow/Weissensee

(Local Court of Pankow/Weissensee), Dept. 62

File Number

62 IV 160 199

Berlin, June 1, 1999

Parties Present:

(Spirka)

Judicial Officer

Judicial Officer

For the opening of a joint last will and testament of

*Prof. Michael Reinhard Strauss, Dr. sc. nat.*

born January 12, 1950, and deceased April 29, 1999,

there appeared no one.

Notice of the parties was impracticable and therefore was omitted.

The death certificate(s) ~~Accident Report(s)~~ are in the files [illegible]

The last will and testament(s) of \_\_\_\_\_

~~which was opened on \_\_\_\_\_ was/were opened again.~~

The joint last will and testament(s) was/were delivered ~~open/in sealed in an open~~ envelope(s).

~~The envelope(s) was/were opened and the last will and testament(s) of 9/22/98 was~~  
opened *after the husband.*

The – joint – last will and testament(s) which were taken from special official  
safekeeping was / were sealed with the seal  
of the notary  
of the Local Court of

The seal(s) was/were intact.

The envelope(s) was / were opened and the – joint – last will and testament(s)  
of \_\_\_\_\_ was/were opened – with the exception of the bracketed portion  
after [cut off of page].

[signature; illegible]

Judicial Officer

[Vertical text on lower left side]

Opening of a last will and testament

§§ 2260, 2273, 2300 of the Civil Code (BGB)

[illegible KG 262]

Joint Last Will and Testament

We, Irene and Michael Strauss, wife and husband, mutually name ourselves as sole heirs.

After the death of the last of us to die, our children, Susanne and Robert, shall be heirs in equal portions.

If one of our children shall demand his or her statutory share after the death of the first of us to die, he or she shall also receive only the statutory share after the last to die.

The surviving spouse shall have the possibility of changing the last will and testament.

Berlin, 9/22/98

Irene Strauss

This testament is also my last will.

Berlin, 9/22/99 [sic]

Michael Strauss

Opened after the husband

Berlin, June 1, 1999

Amtsgericht Pankow/Weissensee (Local Court of Pankow/Weissensee), Dept. 62

- 62 IV 160 199 -

[signature: illegible]

[illegible]

[Seal: AMTSGERICHT PANKOW/WEISSENSEE · BERLIN]

I hereby certify that the above photocopy / ~~duplicate~~ conforms to the original document.

Berlin, 6/21/99

[signature: illegible] Employee of the Court

[Seal: AMTSGERICHT PANKOW/WEISSENSEE · BERLIN]